

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GRETCHEN S. STUART, M.D., et al.,	)	CIVIL ACTION NO.
	)	1:11-CV-00804
Plaintiffs,	)	
	)	
– against –	)	
	)	
RALPH LOOMIS, M.D., et al.,	)	
	)	
Defendants.	)	

RESPONSE OF THE STATE OF NORTH CAROLINA TO THE  
PLAINTIFFS' MOTION TO MODIFY THE COURT'S JULY 9,  
2013 ORDER REQUIRING THE PARTIES TO FILE A JOINT  
SUBMISSION OF UNDISPUTED FACTS

For its response to the plaintiffs' Motion to Modify the Court's July 9, 2013 Order Requiring the Parties to File a Joint Submission of Undisputed Facts (Docket # 150, hereinafter referred to as the "Plaintiffs' Motion"), the State respectfully shows unto the Court that:

1. If the Court believes that the procedures suggested by the plaintiffs in the Plaintiffs' Motion would facilitate or assist the Court's efforts to review the issues relating to the parties' cross motions for summary judgment, the State will consent to the modification of the Court's July 9, 2013 Order requested by the plaintiffs.

2. If the Court does modify its July 9, 2013 Order as suggested in the Plaintiffs' Motion, however, the State asks that the Court permit the State to file a brief written response to the plaintiffs' statement of what they deem to be the undisputed material facts relevant to the cross motions for summary judgment. The State asks this of the Court because it believes, based on its reading of the plaintiffs' July 29, 2013 draft Joint Submission of Undisputed Material Facts, that what the plaintiffs view as the undisputed material facts relating to the cross motions for summary judgment in this case are really legal and factual arguments, not undisputed

material facts. The State requests the right to be heard briefly as to why any such factual and legal arguments do not constitute undisputed material facts.

3. Should the Court grant the Plaintiffs' Motion, the State requests that it be permitted to file such a response on Monday, August 19, 2013, at the same time it files the separate statement of undisputed material facts requested by the Plaintiffs' Motion.

WHEREFORE, the State of North Carolina, by its undersigned counsel, respectfully prays that, if the Court grants the plaintiffs' August 14, 2013 Motion (Docket # 150), it also permit the State to file a brief written response to the plaintiffs' statement of what the plaintiffs deem to be the undisputed material facts relevant to this matter, as well as a brief written statement of what the State deems to be the undisputed material facts relevant to this matter, that the Court permit the State to make these filings by August 19, 2013 and that the Court grant the State such other and further relief as it may deem just and proper.

Respectfully submitted this 15<sup>th</sup> day of August 2013.

/S/ I. Faison Hicks

I. Faison Hicks

North Carolina State Bar No. 10672

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**CERTIFICATE OF SERVICE**

This is to certify that, on the 15<sup>th</sup> day of August 2013, I caused a copy of the foregoing to be electronically filed with the Office of the Clerk of the United States District Court for the Middle District of North Carolina using the CM/ECF filing system, which will automatically provide notice and service of the foregoing to all counsel of record herein.

/s/ I. Faison Hicks

I. Faison Hicks